

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0516 ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

NIEL KELLY MULLARKEY,

Defendant and Appellant.

FILED

MAR 03 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA**MOTION FOR EXTENSION OF TIME  
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Eli M. Parker, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until March 22, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 3<sup>rd</sup> day of March, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER  
Region 2 – Missoula  
610 North Woody  
Missoula, MT 59802

By: *Joselyn Hunt*  
for ELI M. PARKER  
Assistant Public Defender

STATE OF MONTANA            )  
  : ss.

County of Lewis and Clark    )

I, Joslyn Hunt, being first duly sworn upon my oath, depose and state as follows:

1.     I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as Chief Appellate Defender.

2.     In my capacity as Chief Appellate Defender, I have assigned Eli M. Parker to handle the above-entitled matter.

3.     The Appellant's opening brief was first due on December 3, 2009. The brief is presently due on March 8, 2009.

4.     Mr. Parker currently has two opening briefs and one reply brief due in March. Additionally, Mr. Parker is the research attorney for Region 2 of the Office of the Public Defender. In that capacity, he has several briefs due in lower courts and ongoing research projects for Region 2 attorneys. Due to a recent resignation within the Missoula Public Defender's Office, Mr. Parker has assumed an additional caseload, which requires frequent and ongoing client conferences, witness interviews, and court appearances.

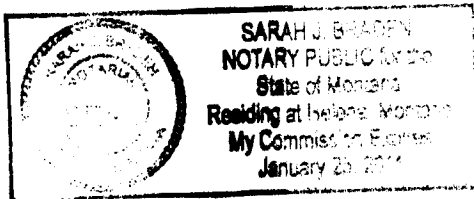
5.     Mr. Parker cannot meet the present deadline for filing the Appellant's brief.

6. Opposing counsel has been contacted concerning this motion and does not object.

7. Further your affiant sayeth naught.

Joslyn Hunt  
Joslyn Hunt

SUBSCRIBED AND SWORN to before me this 3<sup>rd</sup> day of March,  
2010.



Sarah J. Braden  
Sarah J. Braden

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the foregoing

Motion for Extension of Time and Affidavit in Support to be mailed to:

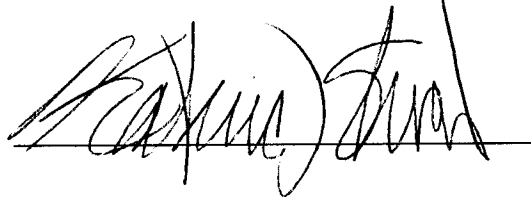
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Lewis and Clark County Attorney  
228 Broadway-Courthouse  
Helena, MT 59601

NIEL MULLARKEY 3002780  
Crossroads Correctional Center  
50 Crossroads Drive  
Shelby, MT 59474

DATED: \_\_\_\_\_

3/3/10

A handwritten signature in black ink, appearing to be "Bulluck", written over a horizontal line.